

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

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|---------------------------|---|---------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 1:09-cr-00100-SEB-KPF |
| |) | |
| JAMES E. COLE, |) | -01 |
| |) | |
| Defendant. |) | |

ENTRY DENYING RELIEF UNDER THE FIRST STEP ACT

Defendant James E. Cole filed a letter on February 11, 2019, in which he seeks “any information on the ‘First Step Act’ that was signed into law December 21, 2018.” Dkt. 36. He asks the Court to “let [him] know what I need to file with the Courts to get these time cuts?” Dkt. 36.

In response to this letter, the Office of the Indiana Federal Community Defender was appointed to represent Mr. Cole to determine whether he may qualify to seek a reduction of sentence and to present any appropriate motions. Dkt. 37. Counsel’s motion to withdraw was granted on July 22, 2019. Dkt. 40.

To the extent Mr. Cole’s letter could be understood as a motion for reduction of sentence based on the computation of his good time credits, that motion is denied. It is true that Section 102(b) of the First Step Act of 2018 (the “First Step Act”), Pub. L. No. 115-391, § 404, 132 Stat. 5194, 5222 (2018), amends 18 U.S.C. § 3624(b) in a manner that assures that up to 54 days of good conduct time is available for each year of incarceration imposed by the court, as opposed to 54 days per year of actual time served. *See Barber v. Thomas*, 560 U.S. 474 (2010) (explaining

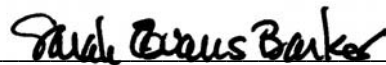
good conduct time calculation). The amendment results in recalculation of the release date of most current inmates.

The Bureau of Prisons is responsible for recalculating Mr. Cole's good time credits. If Mr. Cole seeks to challenge the recalculation of his good time credit he may file a Section 2241 habeas petition in the district of his incarceration. 28 U.S.C. § 2241(a). *See al-Marri v. Rumsfeld*, 360 F.3d 707, 710 (7th Cir. 2004) ("Appellate courts regularly dismiss actions under § 2241 filed outside the judicial district that contains the place of the prisoner's detention."); *United States v. Hagler*, No. 1:10 CR 51, 2019 WL 2393861 at *1 (N.D. Ind. June 4, 2019) (denying motion for First Step Act good conduct time for several reasons, including that such a request may only properly be brought in a Section 2241 petition filed in the petitioner's district of confinement, which was not the Northern District of Indiana, and concluding "this Court does not have jurisdiction to hear" the claim).

No relief is warranted in this closed criminal case.

IT IS SO ORDERED.

Date: 1/30/2020



SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

Distribution:

All Electronically Registered Counsel

James E. Cole F-1-2
Reg. No. 09228-028
Administrative US Penitentiary
P.O. Box 1002
Thomson, IL 61285